

Response  
Application No. 10/820,697  
Attorney Docket No. 042326

**REMARKS**

Claims 1-3 are pending in the present application. Claim 2 is herein amended. Claim 3 is newly added. No new matter is presented.

**Claim Rejections - 35 U.S.C. § 102**

Claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by **Funahashi** (US Patent No. 3,812,782). Favorable reconsideration is requested.

In the previous Amendment, dated June 1, 2006, Applicants stated that Funahashi does not disclose “said elastic member having a circumferential surface shape which is substantially identical to the shape of the label” as recited in claim 1. Specifically, Applicants stated that cylindrical unit 5 of Funahashi covers the entire surface of the roller body except for small strips where partitions 4” are located.

In response, the Office Action, dated August 24, 2006, takes the position that this limitation refers to a material operated on when using the claimed apparatus. (Office Action, page 3.) Thus, the Office Action stated that the limitation does not provide a patentable distinction from Funahashi, and that the roller of Funahashi is capable of operating on a label.

Applicants respectfully submit that the limitation “said elastic member having a circumferential surface shape which is substantially identical to the shape of the label” refers to the shape of the elastic member and thus, to the structure of the apparatus. The structure of the elastic member is recited in terms of the label.

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The Examiner stated that “amending claim 1 in terms of structure to include the label as part of the apparatus would overcome the reference.” (Interview Summary, October 30, 2006.) However, the label is already implicitly recited in the claim. Claim 1 recites “a sticking roller for sticking a label.” The label is not explicitly recited since the label is not part of the invention.

Since the limitation “said elastic member having a circumferential surface shape which is substantially identical to the shape of the label” recites structure, the limitation provides a patentable distinction from Funahashi. Therefore, claim 1 is patentable over Funahashi.

Regarding claim 2, in the previous Amendment, Applicants stated that Funahashi does not disclose that the elastic member is formed into a nearly doughnut shape on the circumferential surface of the roller body. In response, the Office Action cited the side view of the roller in Funahashi as corresponding to this limitation. (Office Action, pages 3-4, citing Funahashi, Fig. 4.)

The Examiner stated that claim 2 could be amended in the following way to overcome the references: “the elastic member being formed into a nearly doughnut shape having a center aperture where the circumferential surface of the roller body is visible through the aperture.” (Interview Summary.) The Examiner further stated that in Funahashi, “the center aperture formed by member 5 being wrapped around body 6 does not allow for visibility of the circumferential surface of body 6.” (Interview Summary.)

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Claim 2 has been amended in accordance with the Examiner's suggested amendment for overcoming Funahashi. Specifically, claim 2 has been amended to recite "said elastic member being formed into a nearly doughnut shape having a center aperture where the circumferential surface of said roller body is visible through the aperture."

Therefore, claim 2 is patentable over Funahashi.

Accordingly, withdrawal of the rejection of claims 1 and 2 is hereby solicited.

#### **New Claim**

New claim 3 recites a sticking roller similar to claim 1 except the language for defining the elastic member has been changed.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,  
**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

A handwritten signature in black ink, appearing to read 'A. G. Melick', written in a cursive style.

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